

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

October 10, 2013

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 10, 2013 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby, Vice Chair; David Dennis, David Foster; Bill Johnson; Joe Johnson; M.S. Mitchell; Debra Miller Stevens; Carol Neugent; Don Sherman and Chuck Warren. Steve Anthimides; Don Klausmeyer; John McKay Jr. and George Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Sharon Dickgrafe, Chief Deputy City Attorney and Maryann Crockett, Recording Secretary.

1. Approval of the September 12, 2013 Planning Commission meeting minutes.

MOTION: To approve the September 12, 2013 meeting minutes, as amended.

J. JOHNSON moved, **WARREN** seconded the motion, and it carried (7-3). **DENNIS** and **D. SHERMAN** – Abstained. **MILLER STEVENS** – Out of room.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2013-00027: Final Plat – COURTYARDS AT AUBURN HILLS ADDITION,**
located north of Kellogg, on the west side of 135th Street West.

NOTE: This is an unplatted site located within the City of Wichita. The plat proposes a zero-lot line development.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that sanitary sewer needs to be extended to serve all lots in the plat (lateral and main). Water needs to be extended to serve all lots in the plat (distribution and transmission).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. Traffic Engineering has approved access controls. The plat proposes complete access control along the 135th street frontage except for one street opening and one emergency access opening.
- E. County Surveying advises that the plat needs to show the limits of a utility easement when changing to a utility and drainage easement.

- F. County Surveying advises the plat contains missing dimensions and several curves with no curve data.
- G. County Surveying requests a PDF of the final plat prior to the applicant submitting the mylar.
- H. A dimension is needed to locate the drainage and utility easement east to west along the west side of Lots 24 and 25, Block 2.
- I. The Plator's text needs to include the correct spelling of "clubhouse" and reference "nor shall any fill..." in the floodway language.
- J. County Surveying requests a permanent on-site benchmark.
- K. The applicant shall guarantee the paving of the proposed streets. The paving guarantee shall also provide for sidewalks on at least one side of the loop street.
- L. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- M. Since Reserve K includes a swimming pool, a site plan has been submitted with the final plat for review by MAPD. Since parking spaces are proposed within the 25-foot front setback, a zero setback is needed for Reserve K. The design for the pool must be submitted to Environmental Health Division for review prior to issuing a building permit for the pool.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- O. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- P. Since this plat proposes the platting of A 32-foot narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- Q. GIS has requested Verona be labeled on the entry street.
- R. The plat proposes 61 lots that do not conform to the 50-foot lot width standard. The Subdivision Committee has recommended a modification from the Subdivision Regulations.

S. The applicant has proposed six-foot side-yard setbacks for the zero-lot line lots, which represents a modification of the Subdivision Regulations which requires a minimum 10-foot side yard setback for zero lot line dwellings. The Subdivision Committee has recommended a modification.

Metropolitan Area Building and Construction Department requests one-hour fire walls for the building on the zero lot line side. The building with the 6-foot side setback may be constructed without a fire separation, but only window well and roof encroachments are permitted into the side yard. No building cantilevers or equipment is permitted in the side yards and sight restrictions shall be maintained on the windows.

T. The applicant has proposed 11.5-foot rear setbacks for lots not abutting reserves. This represents a reduction of the Zoning Code standard of 20 feet for the SF-5 Single-family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. The Subdivision Committee has recommended a modification.

U. Since the typical lot size is 48-feet by 125-feet, approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations for several of the lots (2.6 ratio). The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee has recommended a modification.

V. The plat's text shall reference "two full movement openings".

W. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.

X. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

Y. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

Z. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

AA. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- BB. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- CC. Perimeter closure computations shall be submitted with the final plat tracing.
- DD. Any relocation and or removal of existing utilities due to this plat will be at the applicant's expense.
- EE. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **J. JOHNSON** seconded the motion, and it carried (10-0).

2-2. SUB2013-00037: Final Plat – PORTER ESTATES ADDITION, located on the northeast corner of 85th Street North and Oliver.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, Metropolitan Area Building and Construction Department has issued a memorandum specifying approval of on-site sewerage facilities. The applicant proposes sewage lagoons which require 4.5 net acres per lot per the Subdivision Regulations. The Subdivision Committee has recommended a modification of lot area.
- B. The site is currently located within the Sedgwick County Rural Water District (SCRWD) No. 2. SCRWD No. 2 has provided notification that there is sufficient capacity to serve the property.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Public Works has approved the drainage plan.
- E. The plat denotes one opening along 85th Street North and three openings along Oliver including one joint opening. County Public Works has approved the access controls.
- F. The joint access easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.

- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. The legal description needs corrected to reference “Township 25 South”.
- I. The plat’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Any removal or relocation of existing equipment of utility companies will be at the applicant’s expense.
- Q. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **J. JOHNSON** seconded the motion, and it carried (10-0).

2-3. SUB2013-00040: One-Step Final Plat – KANSAS AVIATION MUSEUM ADDITION, located south of 31st Street South, East of Oliver.

NOTE: This unplatted site is located in the County adjoining Wichita’s boundary.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management and County Public Works have approved the drainage plan. City Stormwater Management advises that a cross-lot drainage agreement with the property to the north is recommended, but not required since the platting of the property will not measurably change the current conditions.
- D. To allow for County Commission approval of this plat, the County Commissioner signature block shall be included on the final plat tracing.
- E. According to the platting binder, a blanket pipeline easement has been granted over this plat. The applicant shall either obtain a release of the easement or provide proof that the easement has been confined. If any portion of this easement is confined on this plat, it shall be shown and the pipeline’s name and recording information shown.
- F. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- G. County Surveying requests the plat show the overall dimension along the north section line.
- H. The plattor’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- K. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Westar Energy has advised that the applicant or agent needs to contact LaDonna Vanderford about how power will be brought to the addition. The electric line and equipment that runs north and south to the west of this plat is a temporary line that was used to service a concrete plant on McConnell Air Force Base. It is scheduled to be removed when access is granted. There is no service coming from the west side of the plat. That line also comes across property owned by Spirit. It may be that some conversation is needed between the applicant, McConnell, Spirit and LaDonna. She can be contacted at 261-6490. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- P. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **J. JOHNSON** seconded the motion, and it carried (10-0).

2-4. SUB2013-00041: One-Step Final Plat – SPILLED WINE ADDITION, located south of 21st Street on the east side of Greenwich.

NOTE: This unplatted site is located in the County adjoining Wichita's boundary and annexation is required. The south portion of the site is currently zoned SF-20 Single-family Residential and will be converted to SF-5 Single-family Residential upon annexation.

STAFF COMMENTS:

- A. As this site is adjacent to Wichita's municipal boundaries, the Applicant shall submit a request for annexation. Upon annexation, the property will be zoned SF-5 Single-family Residential. The final plat shall not be scheduled for City Council review until annexation has occurred.
- B. City of Wichita Public Works and Utilities Department requests the extension of sanitary sewer (lateral) and the extension of water lines (distribution) to serve all lots being platted. Transmission, distribution and main in-lieu-of-assessment fees are due per square footage.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. City Stormwater Management has approved the applicant's drainage plan.
- E. The standard floodway language is needed in the plattor's text: "FEMA floodplain and regulatory floodway boundaries are subject to periodic change and such change may affect the intended land use within the subdivision."
- F. Traffic Engineering has approved the access controls. The plat proposes three access openings along Greenwich.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. The 25-foot KG & E easement along the south property line needs labeled correctly.
- J. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.

- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- R. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **J. JOHNSON** seconded the motion, and it carried (10-0).

2-5. SUB2012-00027: Revised Final Plat – THE RANCH ADDITION, located south of 21st Street North, on the west side of 159th Street East.

NOTE: This is an unplatted site located partially in the City. This revised plat expands the boundaries northward to include the corner property which is located in the County. This additional lot is currently zoned SF-20 Single-family Residential and will be converted to SF-5 Single-family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the corner lot will need to be completed. Upon annexation, the property will be zoned SF-5, Single-family Residential.
- B. City of Wichita Public Works and Utilities Department advises that sanitary sewer needs to be extended to serve all lots (lateral and main). Water needs to be extended to serve all lots (distribution and transmission), except for Lots 30 and 33, Block A. Lots 30 and 33, Block A have water available and will need specific rights across Reserve B and Reserve C, to connect to the existing water main. Lots 30 and 33, Block A will need to pay in-lieu-of fees for distribution and transmission.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.

- D. City Engineering advises that the private water service lines for Lots 30 and 33, Block A cross Reserves B and C and should be added as a permitted use in the plat's text, and be confined to private easements.
- E. City Stormwater Management has approved the drainage plan subject to additional drainage easements. Lot 29, Block A needs to have a minimum pad elevation added to the face of the plat.
- F. Traffic Engineering has approved the access controls. The plat proposes complete access control along 159th Street East except for one street opening and two access openings across the reserves for Lots 29 and 32. Two access openings are proposed for 21st Street North.
- G. The applicant shall guarantee the paving of the private street (Reserve H) to a public street paving standard. As a private improvement, such guarantee shall not be provided through the use of a petition.
- H. A restrictive covenant shall be submitted regarding the private street (Reserve H), which sets forth ownership and maintenance responsibilities.
- I. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. Due to the street length of Rockhill Court, an emergency access easement was platted extending from the north cul-de-sac to 21st Street North. City Fire Department has approved the emergency access easement.
- M. The paving guarantee shall include the construction of a paved roadway surface for the emergency access easement. The emergency access easement shall be established by separate instrument. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per City Fire Department standards.
- N. GIS has approved the plat's street names.
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- P. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Westar Energy has requested the 15-foot utility easement along Rock Hill be continuous from 159th across the south line of Lot 31 along Reserve D. The applicant shall either increase the current 10-foot utility easement along the north line of Lot 30 to 15 feet or the 35-foot drainage easement extending south from 21st Street North be changed to a drainage and utility easement in order for Westar to loop power. Any relocation or removal of existing equipment made necessary by this plat will be at the applicant's expense. Heide Hancock is the contact for this plat and can be contacted at 261-5554.
- X. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, **J. JOHNSON** seconded the motion, and it carried (10-0).

2-6. SUB2013-00032: One-Step Final Plat - BETHANY BAPTIST 1ST ADDITION,
located on the north side of 117th Street North, west of 199th Street West. MAPC voted
9-26-13 to Defer until 10-10-13.

NOTE: This unplatted site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. County Public Works has approved the applicant’s drainage plan subject to matching the bar scale and viewport scale.
- D. County Surveying advises that in the legal description, “2E” needs to be changed to “2W”.
- E. County Surveying advises in the legal description that “NW ¼” needs referenced correctly.
- F. The utility easement needs to be referenced in the plat’s text.
- G. County Surveying would like to be contacted regarding the plat boundary and legal description.
- H. County Surveying advises per County survey records the northwest corner of the northeast quarter is 3 feet, more or less, south of position shown.
- I. County Surveying advises per County survey records the distances 2640.00' and 2431.00' are off by 26 feet, more or less.
- J. The Subdivision Committee has required a 60-foot half-street right-of-way.
- K. Since a 60-foot right-of-way is required by the Subdivision Committee, the property will contain 1.43 acres and an administrative adjustment for lot area will be needed prior to the MAPC meeting.
- L. The plat denotes two openings along 117th Street North. The Subdivision Committee has approved the two openings.
- M. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- N. A lot and block shall be designated on the face of the plat as referenced in the plat’s text.

- O. In the surveyor's certificate, the reference to "K.S.A. 12-512(b)" should read "K.S.A. 12-512b, as amended."
- P. The signature block for the Board of Commissioners Chairman should be revised to read underneath the signature line, "James B. Skelton, 5th District."
- Q. On the final plat tracing, the MAPC signature block needs to reference "Don Klausmeyer" as Chair.
- R. GIS has requested abbreviations for the street types and directionals.
- S. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- U. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Z. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disc. If a disc is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MITCHELL asked if item J. had been taken care of.

STRAHL advised that the Administrative Adjustment was being finalized.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DENNIS moved, J. JOHNSON seconded the motion, and it carried (10-0).

3. **PUBLIC HEARING – VACATION ITEMS**

3-1. VAC2013-00036: City request to vacate a portion of street right-of-way.

APPLICANT/AGENT: Hiland Dairy Company, c/o Gerald Grey Lampton Brothers Investments, Inc., c/o Doug Lampton (applicants) Ruggles & Bohm, PA, c/o Chris Bohm (agent)

LEGAL DESCRIPTION: Generally described as that portion of Mead Street (50-foot wide) located north of Central Avenue, south of the abandoned railroad right-of-way, between the Hiltons Addition to the Hiltons Addition and the Lampton Brothers 2nd Addition (see attached legal).

LOCATION: Generally located north of Central Avenue and east of the elevated railroad right-of-way (WCC #VI)

REASON FOR REQUEST: Storage, parking.

CURRENT ZONING: The subject site is public street right-of-way. All abutting and adjacent properties are zoned LI Limited Industrial (LI).

The applicants are requesting the vacation of the described portion of the 50-foot wide Mead Street right-of-way located north of Central Avenue and south of the abandoned railroad right-of-way. This approximately 830-foot long section of Mead Avenue currently dead ends at the abandoned railroad right-of-way. That portion of Mead Avenue located north of the abandoned railroad right-of-way to Murdock Avenue has already been vacated. The applicants own all abutting property. There is public water and drainage in the right-of-way. Public Works needs time to relocate sanitary sewer and have easement(s) dedicated. Hiland needs to accept ownership and maintenance of the eight-inch sanitary sewer main that is south of the relocation project, as there is a Hiland building located over the eight-inch sanitary sewer main. Westar has equipment in the right-of-way. The Hiltons Addition to the Hiltons Addition was recorded March 23, 1872. The Lampton Brothers 2nd Addition was recorded February 23, 2012.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted street.

- (1) Dedicate by separate instruments portions of the vacated street right-of-way as water, sewer, drainage and utilities easements for all public and franchise utilities. Or, dedicate by separate instrument all of the vacated right-of-way as a water, sewer, drainage and utilities easement. All

approved dedications with original signatures must be provided to Planning prior to the request going to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (2) Hiland needs to accept ownership and maintenance of the eight-inch sanitary sewer main that is located under a Hiland building. Provided to Public Works with the required document accepting ownership and maintenance of the eight-inch sanitary sewer, as reviewed and approved by Public Works. The approved document with original signatures must be provided to Planning prior to the request going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Public Works needs time to relocate a section of sanitary sewer and have easement(s) dedicated. The applicants need to coordinate the timing needed for this relocation and the recording of the necessary sewer easement with Public Works, prior to the request going to City Council for final action.
- (4) Provide restrictive covenant(s) with original signatures binding and tying the vacated street to the abutting properties. The restrictive covenant(s) must be provided to Planning prior to the request going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (5) Provide a legal description of the vacated Mead Street right-of-way on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action. This legal will be used in the Vacation Order.
- (6) All improvements shall be according to City Standards and at the applicant's expense. Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, drainage, sewer, water and franchise utilities.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Dedicate by separate instruments portions of the vacated street right-of-way as water, sewer, drainage and utilities easements for all public and franchise utilities. Or, dedicate by separate instrument all of the vacated right-of-way as a water, sewer, drainage and utilities easement. All approved dedications with original signatures must be provided to Planning prior to the request going to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (2) Hiland needs to accept ownership and maintenance of the eight-inch sanitary sewer main that is located under a Hiland building. Provided to Public Works with the required document accepting ownership and maintenance of the eight-inch sanitary sewer, as reviewed and approved by Public Works. The approved document with original signatures must be provided to Planning prior to the request going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) Public Works needs time to relocate a section of sanitary sewer and have easement(s) dedicated. The applicants need to coordinate the timing needed for this relocation and the recording of the necessary sewer easement with Public Works, prior to the request going to City Council for final action.
- (4) Provide restrictive covenant(s) with original signatures binding and tying the vacated street to the abutting properties. The restrictive covenant(s) must be provided to Planning prior to the request going to City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (5) Provide a legal description of the vacated Mead Street right-of-way on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action. This legal will be used in the Vacation Order.
- (6) All improvements shall be according to City Standards and at the applicant's expense. Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, drainage, sewer, water and franchise utilities.
- (7) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

LONGNECKER noted for the record that item (3) of the Staff Report regarding relocation of a section of sanitary sewer by Public Works was not under the conditions listed at item (6) to be done at the applicant's expense. He clarified that the City will relocate the section at its own expense.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

J. JOHNSON moved, **B. JOHNSON** seconded the motion, and it carried (10-0).

1-2. VAC2013-00037: City request to vacate a portion of an access easement.

OWNER/AGENT: Mark Ysidro (applicant/owner) Greg Ferris (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted 30-foot wide access easement located within Lots 2, 3, 4, & 5, the MacArthur Beach Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located west of I-235, south of MacArthur Road, on the west side of Gold Street.

REASON FOR REQUEST: Control access onto property.

CURRENT ZONING: The site and some abutting northern properties are zoned MF-29 Multi-Family Residential (MF-29). The site is also located within Community Unit Plan DP-72. Other abutting northern properties are zoned SF-5 Single-Family Residential (SF-5). Abutting southern property is part of the Riverside Drainage Ditch right-of-way. Abutting western property is not zoned and appears to be part of the Riverside Drainage district.

The applicant proposes to vacate a portion of a platted 30-foot wide access easement located within Lots 2, 3, 4, & 5, the MacArthur Beach Addition. The applicant owns all of the described property. The platted access easement runs from the north end of Lot 5 (and the south end of a private access easement dedicated by separate instrument; Film-228, Page-98) to the north end of Lot 1 and MacArthur Road. The applicant has access to his property off of Gold Street (VAC2008-00040) and does not need the access provided by the platted access easement. The MacArthur Beach Addition describes the 30-foot wide easement as an “access easement for tenants, fire lane and drainage ditch maintenance.” The reference to tenants reflects Community Unit Plan DP-72’s proposed development as “garden apartments,” which is a multi-family residential development and compatible with the property’s MF-29 Multi-Family Residential (MF-29) zoning. Approximately a third (the west third located across the lake from the subject property) of DP-72 has been developed as apartments, the rest of DP-72 contains the applicant’s single-family residence. There is a platted 10-foot wide Riverside drainage ditch on the south end of the plat, which the access for drainage ditch maintenance is meant to be used for. There is a sewer line and manhole located in the south portion of the subject property that is not covered by an easement. The MacArthur Beach Addition was recorded with the Register of Deeds November 28, 1978.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of a platted access easement.

- (1) Retain that portion of the 30-foot wide platted access easement that runs parallel to the platted 10-foot wide Riverside Drainage Ditch and the larger Riverside Drainage Ditch right-of-way (condemnation case 65379) and parallel to the south lot lines of Lots 3 and 4, MacArthur Beach Addition, as a drainage ditch maintenance access easement.
- (2) Dedicate a sewer easement by separate instrument located on the south forty feet of the east twenty feet of Lot 4, Block 1, MacArthur Beach. The approved dedication with original signatures must be provided to Planning prior to the request going to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.

- (3) The site is located within CUP DP-72. Apply for an adjustment to restrict development on Parcel 3 and that portion of Parcel 2 located on Lots 2, 3, & 4, MacArthur Beach Addition to single-family residential development. This must be resolved prior to the request going to the City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain that portion of the 30-foot wide platted access easement that runs parallel to the platted 10-foot wide Riverside Drainage Ditch and the larger Riverside Drainage Ditch right-of-way (condemnation case 65379) and parallel to the south lot lines of Lots 3 and 4, MacArthur Beach Addition, as a drainage ditch maintenance access easement.
- (2) Dedicate a sewer easement by separate instrument located on the south forty feet of the east twenty feet of Lot 4, Block 1, MacArthur Beach. The approved dedication with original signatures must be provided to Planning prior to the request going to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
- (3) The site is located within CUP DP-72. Apply for an adjustment to restrict development on Parcel 3 and that portion of Parcel 2 located on Lots 2, 3, & 4, MacArthur Beach Addition to single-family residential development. This must be resolved prior to the request going to the City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

J. JOHNSON moved, **B. JOHNSON** seconded the motion, and it carried (10-0).

PUBLIC HEARINGS

- 2. **Case No.: CON2013-00014 (Deferred from September 12, 2013)** – the City of Wichita (John Philbrick) and Trek AEC (Alan Degood) / Ferris Consulting (Greg Ferris) request an Amendment of the oil and gas well district map; approval of a special permit for the drilling of

an oil or gas well and approval of a Conditional Use to permit the drilling of an oil or gas well on property described as:

Part of Reserve "B", Map of West Wichita, Sedgwick County, Kansas, described as commencing at the S.W. Corner thereof; thence N00°00'00"E, along the West line of said Reserve "B", 248.60 feet to the N.W. corner of Lot 1, Sycamore Addition to Wichita, Kansas, Sedgwick County, Kansas, for a point of Beginning; thence N67°23'00"E, along the Northwesterly line of said Sycamore Addition, 100.00 feet; thence N60°29'00"E, along the Northwesterly line of said Sycamore Addition, 274.60 feet to the N.E. corner of said Sycamore Addition; thence N33°39'00"W, along the extended Northeasterly line of said Sycamore Addition, 165.10 feet to the intersection with the center line of vacated 1st. Street; thence N89°49'35"W, along the center line of said vacated 1st. Street, 239.79 feet to the West line of said Reserve "B"; thence S00°00'00"W, along the West line of said Reserve "B", 311.90 feet to the point of beginning.

The application was withdrawn by the applicant.

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3. **Case No.: ZON2013-00022** - Wil-Ken Enterprises, c/o Willie L. Kendrick (owner/applicant) and Glenn Hunt, PE (agent) City request for LC Limited Commercial zoning on property zoned B Multi-Family Residential on property described as:

Parcel 1: Beginning 30 feet East and 280 feet South of the Northwest corner of the Northwest Quarter of Section 14, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence South 70 feet; thence East 150 feet ;thence North 70 feet; thence West to the Point of Beginning, being vacated Lots 21 and 23 and the North 20 feet of Lot 25, Baldock's Addition, Wichita, Sedgwick County, Kansas

Parcel 2: Beginning 30 feet East and 350 feet South of the Northwest corner of the Northwest Quarter of Section 14, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence South 42.66 feet; thence East 150 feet ;thence North 42.66 feet; thence West to the Point of Beginning, being vacated South 5 feet of Lot 25 and ALL of Lot 27 and the North 12.66 feet of Lot 29, Baldock's Addition, Wichita, Sedgwick County, Kansas

Parcel 3: Beginning 30 feet East and 392.66 feet South of the Northwest corner of the Northwest Quarter of Section 14, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence South 49.84 feet; thence East 150 feet ;thence North 49.84 feet; thence West to the Point of Beginning, being vacated South 12.34 feet of Lot 29, ALL of Lot 31 and the North half of Lot 33, Baldock's Addition, Wichita, Sedgwick County, Kansas

Parcel 4: Beginning 30 feet East and 442.5 feet South of the Northwest corner of the Northwest Quarter of Section 14, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence South 12.5 feet; thence East 150 feet ;thence North 12.5 feet; thence West to the Point of Beginning, being vacated South half of Lot 33, Baldock's Addition, Wichita, Sedgwick County, Kansas

BACKGROUND: The applicant owns the undeveloped mostly B Multi-Family Residential (B) zoned subject properties located along the east side of North Hillside Avenue, between 13th Street North and 12th Street North. Approximately half of the subject properties have B zoning along their North Hillside Avenue frontage and LC Limited Commercial (LC) zoning located on their rear halves. The applicant is requesting LC zoning to match the LC zoning on the rest of its properties located on the southeast side of the 13th Street North – Hillside Avenue intersection.

This portion of North Hillside has LC zoned small retail – commercial development located on both sides of it. There are also undeveloped LC, B and GC General Commercial (GC) zoned properties along this portion of North Hillside Avenue. Development and zoning located north of the site and including the northeast and northwest corners of the 13th Street North and Hillside Avenue intersection are: an abutting Popeyes Fried Chicken restaurant with a drive-thru, a small vacant appliance store, (north of 13th Street North) an auto repair garage, a small church, a small convenience store (without the gas service) and undeveloped land. All of these properties are zoned LC. Development and zoning located west of the site, across Hillside Avenue and south of 13th Street North, include: a small partially occupied (with a salon) retail strip, another partially occupied (with The Bachelor’s Lounge) retail strip, a combination rug cleaner – pest exterminator – sewer cleaning business, a small vacant retail strip, two small vacant retail buildings and a Churchs Fried Chicken restaurant with a drive-thru. All of these properties are zoned LC. South of the retail – commercial, across 12th Street North, developments are: B zoned single-family residences, a church, the Maple Grove Cemetery and the Highland Cemetery. The LC zoned east abutting and adjacent properties (which have frontage on the residential street Holyoke Avenue) include: undeveloped properties and two single-family residences. There is also a small undeveloped B zoned property on the southwest corner of 13th Street North and Holyoke Avenue. Across Holyoke Avenue is a small B, TF-3 Two-Family Residential (TF-3) and SF-5 Single-Family Residential (SF-5) zoned mostly single-family residential neighborhood; bound by 13th Street North on its north side, the Maple Grove Cemetery on its south side, and the B zoned World Impact/Urban Ministry complex on its east side. The largest developments along this section of North Hillside Avenue are the previously mentioned Maple Grove and Highland Cemeteries and Wesley Hospital on its south side and Wichita State University on its north side.

The 13th Street North and Hillside Avenue intersection is currently undergoing improvements, as part of the larger construction/improvements on 13th Street North. 13th Street North is currently under construction from Oliver Avenue on the east end to the Interstate Highway 235 interchange on the west end. The project was let on June 15, 2012, construction started in early August 2012, and is scheduled for completion at the end of November 2013.

CASE HISTORY: The site is located on Lots 21-31, odd, and the north half of Lot 33, Baldocks Addition, which was recorded with the Register of Deeds October 20, 1888.

ADJACENT ZONING AND LAND USE:

NORTH: LC	Fast food restaurant with drive-thru, vacant appliance store, auto repair, church, small convenience store (no gas), undeveloped land
SOUTH: GC, LC, B	Undeveloped land, single-family residences, two cemeteries
EAST: LC, B, TF-3 SF-5	Undeveloped land, single-family residences, duplex, ministry complex
WEST: LC	Retail strips, commercial building, small vacant retail strip, two small vacant retail buildings, fast food restaurant with drive-thru

PUBLIC SERVICES: The site has drives onto North Hillside Avenue, a four-lane principle arterial, with a center turn-lane. The drives are the remainder of what used to be, as recently 2000, single-family residential development. This portion of North Hillside Avenue has an uneven 30-50 feet of half-street right-of-way. The subject properties have 30 feet of half-street right-of-way. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The ‘2013 Land Use Guide of the Comprehensive Plan’ (Plan) identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including apartments, typically

found in large urban municipality. The UZC identifies LC zoning as being not compatible with the urban residential category. The UZC identifies B zoning as generally compatible with the urban residential category.

The site is located within the block defined by 13th Street North on its north side, Hillside Avenue on its west side, 12th Street North on its south side and Holyoke Avenue on its east side. The Plan identifies all of the northern half of this block as “local commercial.” Those LC zoned properties located in the north-half of the block are compatible with the local commercial category. Most of the properties located in the south-half of this block are zoned LC, the exception being the applicant’s B zoned properties and the undeveloped GC zoned properties abutting the south side of the applicant’s properties. The zoning pattern for the south-half of this block does not comply with the Plan, but the requested LC zoning matches up with the block’s predominate LC zoning.

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites and high density multi-family residential sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site does have direct access onto North Hillside Avenue, a principle arterial. Although the site does not have frontage on the local residential street Holyoke Avenue, it does abut either LC zoned undeveloped land or single-family residences that do have frontage on Holyoke Avenue. There is a possibility that future development on the site would include combining it with the LC zoned undeveloped land or single-family residences that do have frontage on Holyoke Avenue.

The site is located within the ‘Central Northeast Area Plan’ (Area Plan). Although this intersection is not specifically identified as a target for business development, the Area Plan’s business priorities include, encouraging more neighborhood serving retail and personal services and retaining and attracting new businesses and jobs. If approved the requested LC zoning on the applicant’s undeveloped properties together with abutting and adjacent undeveloped LC and GC zoned properties, provide an opportunity for new business in the area. However, this opportunity is only part of the current commercial development dynamic of this area, which includes vacant LC zoned retail strips and free standing retail and other LC, GC and B zoned undeveloped properties. The impact of the ongoing 13th Street North construction improvements, which include the 13th Street North and Hillside Avenue intersection improvement, is another dynamic that may have contributed to the vacant retail commercial buildings.

RECOMMENDATION: There are LC zoned properties abutting the east side of the subject site. These abutting LC zoned properties have frontage on Holyoke Avenue, a local residential street. If the requested LC zoning is approved traffic from the LC zoned properties could have access onto Holyoke Avenue, thus introducing commercial traffic into a small single-family residential neighborhood. Based upon the information available prior to the public hearings, including the direction given in the South Central Neighborhood Plan planning staff recommends that the request for a LC zoning be **APPROVED**, contingent on dedication of access control along Hillside Avenue as approved by the Traffic Engineer, dedication of 20 feet street right-of-way along the subject properties Hillside Avenue frontage as approved by the Traffic Engineer, and a covenant prohibiting access from the subject properties onto Holyoke Avenue.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** This portion of North Hillside has LC zoned small retail – commercial development located on both sides of it. There are also undeveloped LC, B and GC General Commercial (GC) zoned properties along this portion of

North Hillside Avenue. Development and zoning located north of the site and including the northeast and northwest corners of the 13th Street North and Hillside Avenue intersection are: an abutting Popeyes Fried Chicken restaurant with a drive-thru, a small vacant appliance store, (north of 13th Street North) an auto repair garage, a small church, a small convenience store (without the gas service) and undeveloped land. All of these properties are zoned LC. Development and zoning located west of the site, across Hillside Avenue and south of 13th Street North, include: a small partially occupied (with a salon) retail strip, another partially occupied (with The Bachelor's Lounge) retail strip, a combination rug cleaner – pest exterminator – sewer cleaning business, a small vacant retail strip, two small vacant retail buildings and a Church's Fried Chicken restaurant with a drive-thru. All of these properties are zoned LC. South of the retail – commercial, across 12th Street North, developments are: B zoned single-family residences, a church, the Maple Grove Cemetery and the Highland Cemetery. The LC zoned east abutting and adjacent properties (which have frontage on the residential street Holyoke Avenue) include: undeveloped properties and two single-family residences. There is also a small undeveloped B zoned property on the southwest corner of 13th Street North and Holyoke Avenue. Across Holyoke Avenue is a small B, TF-3 Two-Family Residential (TF-3) and SF-5 Single-Family Residential (SF-5) zoned mostly single-family residential neighborhood; bound by 13th Street North on its north side, the Maple Grove Cemetery on its south side, and the B zoned World Impact/Urban Ministry complex on its east side. The largest developments along this section of North Hillside Avenue are the previously mentioned Maple Grove and Highland Cemeteries and Wesley Hospital on its south side and Wichita State University on its north side.

(2) **The suitability of the subject property for the uses to which it has been restricted:**

Approximately half of the properties requesting LC zoning have their rear halves already zoned LC, with their front halves (the portion abutting North Hillside Avenue) zoned B. This LC and B zoning combination would allow multi-family residential development as would the applicant's other B zoned subject properties, which would be an appropriate use for the subject properties.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** All of the adjacent and abutting properties are zoned LC or GC, with the exception of a small group (0.10-acres) of B zoned properties located on the southwest corner of 13th Street North and Holyoke Avenue. If approved all of this block, with the just noted exception, will be zoned LC or GC, which means a minimum amount of negative impact for the closest abutting and adjacent LC zoned properties. The requested covenant prohibiting access from the subject properties onto the local residential street, Holyoke Avenue, does not impact the existing LC zoned properties abutting Holyoke Street, which may already have access onto Holyoke Avenue. A replat of all of the applicant's properties would address access onto Holyoke Avenue.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The '2013 Land Use Guide of the Comprehensive Plan' (Plan) identifies the site as "urban residential." The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including apartments, typically found in large urban municipality. The UZC identifies LC zoning as being not compatible with the urban residential category. The UZC identifies B zoning as generally compatible with the urban residential category.

The site is located within the block defined by 13th Street North on its north side, North Hillside Avenue on its west side, 12th Street North on its south side and Holyoke Avenue on its east side. The Plan identifies all of the northern half of this block as "local commercial." Those LC zoned

properties located in the north-half of the block are compatible with the local commercial category. Most of the properties located in the south-half of this block are zoned LC, the exception being the applicant's B zoned properties and the undeveloped GC zoned properties abutting the south side of the applicant's properties. The zoning pattern for the south half of this block does not comply with the Plan, but the requested LC zoning matches up with the block's predominate LC zoning.

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites and high density multi-family residential sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site does have direct access onto North Hillside Avenue, a principle arterial. Although it does not have frontage on the local residential street Holyoke Avenue, it does abut either LC zoned undeveloped land or single-family residences that do have frontage on Holyoke Avenue. There is a possibility that future development on the site would include combining it with the LC zoned undeveloped land or single-family residences that do have frontage on Holyoke Avenue.

The site is located within the 'Central Northeast Area Plan' (Area Plan). Although this intersection is not specifically identified as a target for business development, the Area Plan's business priorities include; encouraging more neighborhood serving retail and personal services and retaining and attracting new businesses and jobs. If approved the requested LC zoning on the applicant's undeveloped properties together with abutting and adjacent undeveloped LC and GC zoned properties, provide an opportunity for new business in the area. However, this opportunity is only part of the current commercial development dynamic of this area, which includes vacant LC zoned vacant retail strips and free standing retail and other LC, GC and B zoned undeveloped properties. The impact of the ongoing 13th Street North construction improvements, which include the 13th Street North – Hillside Avenue intersection improvement, is another dynamic that may have contributed to the vacant retail buildings.

- (5) **Impact of the proposed development on community facilities:** The subject properties and most of the LC and GC zoned properties are not developed. Any commercial development on the undeveloped properties will bring more traffic onto this portion of North Hillside Avenue, a principle arterial, and possibly Holyoke Avenue, a local residential street. Commercial development on the undeveloped LC zoned properties will also increase storm water runoff. The ongoing improvements to 13th Street North and the 13th Street North and Hillside Avenue intersection should provide some relief in regards to traffic flow and drainage, but it does not address commercial traffic onto Holyoke Avenue.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

J. JOHNSON moved, **WARREN** seconded the motion, and it carried (10-0).

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4. **Case No.: ZON2013-00023 and CUP2013-00031** - RJ Realty, LLC (Roger Scholfield) / Baughman Company, P.A. (Russ Ewy) request a City request for LC Limited Commercial zoning on TF-3 Two-Family and SF-5 Single-Family Residential zoned property and request for a minor amendment to DP-305 to allow expansion of a car dealership on property described as:

The East 23 feet of lot 4 and the West 33 feet of lot 5, Block 10, Eastridge Addition to Wichita, Sedgwick County, Kansas together with Lots 1 through 8, Block 1, Eastridge 5th Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is seeking LC Limited Commercial (LC) zoning and inclusion in the Schofield Honda Commercial Community Unit Plan (CUP) DP-305 of 2.2 acres of platted property located on both sides of East Orme Street, between South Drury Lane (extended) and South Gouverneur Road. Part of the application area (.21 acre and addressed as 6932 East Orme Street) is located north of East Orme Street, is zoned TF-3 Two-family Residential (TF-3), is the only portion of the block located north of East Orme Street, between South Mission Road and South Gouverneur Road that is not owned by the applicant and has not been previously incorporated into the existing Schofield Honda Commercial CUP DP-305. The second part of the application area contains 1.99 platted acres that are zoned SF-5 Single-family Residential (SF-5), and is located south of East Orme Street, between South Drury Lane and South Gouverneur Road. All nine of the properties comprising the application area are developed with single-family residences built between 1952 and 1954, and have frontage onto East Orme Street. It is proposed by the applicant to vacate East Orme Street; however, the vacation of East Orme Street will require a separate action - either the replatting the property or the completion of a street vacation. If East Orme Street is vacated, the applicant proposes to incorporate the vacated street right-of-way and the application area located south of East Orme Street into a wall-enclosed unified dealership, and to use the portion of the application area located south of East Orme Street for vehicle storage and employee parking. The portion of the application area located north of East Orme Street would be incorporated into the main dealership as well and enclosed by a wall. (If East Orme Street is vacated as proposed, the next intersection allowing a left-turn to go north-bound on South Gouverneur Drive is at South Apache Drive, located three blocks south of Orme Street.)

The proposal will increase the size of DP-305 from 6.98 acres to 9.19 acres (General Provision 1). Signage standards will be unchanged (General Provision 2). Thirty-five-foot building setbacks along the perimeter of the property will be applied to the application area and match existing setback requirements (General Provision 3). Complete access control between Mission Road and Drury Lane will be extended to apply to the application area located north of East Orme Street (General Provision 4). If East Orme Street is vacated as proposed, gates will be installed at the eastern and western ends of the vacated portions of East Orme Street; at the intersection of East Orme Street and North Drury Lane and South Gouverneur Drive. Off-street parking standards will remain per City Code (General Provision 5). A solid masonry wall will be installed along the perimeter of the application area, and said wall is to match the existing wall with respect to color and materials (General Provision 6A). General Provision 12 give the applicant up to 12 months from the date of approval to defer the installation of the masonry wall with an opportunity for City Council to grant additional extensions. Landscaping standards, screening of trash receptacles, rooftop mechanical equipment and outdoor work areas will remain the same General Standards 6B-E). It is proposed that a drainage plan will be submitted at the time of development (General Provision 8). Parking lot lighting elements (fixtures, poles, lamps, etc.) are to be similar and are to use cutoff luminaries and the height of lighting poles located within 120 feet of residential zoning will have a maximum height of 15 feet (General Provision 9). The Unified Zoning Code limits maximum light pole height to 15 feet when located within 200 feet of residential zoning. Proposed General Provision 10 permits outdoor speakers and sound amplification systems and the use of elevated platforms to display vehicles in the north 270 feet of Parcel 1 not included in BZA 30-85, and is consistent with existing General Provision 10. Overhead doors are prohibited from facing residential zoning within the south 120 feet of the CUP.

Properties in the larger area are zoned LC, TF-3 or SF-5 and are primarily developed with commercial or residential uses. The county appraiser has valued the eight properties located south of East Orme

Street between \$50,100-68,600. Traditionally, East Orme Street was generally viewed as the southern boundary for the expansion of commercial uses fronting East Kellogg Street. However, with the expansion of East Kellogg Street, properties located south of East Orme Street have come under increasing pressure to transition to more intense zoning and uses. The current request is a continuation of that trend.

CASE HISTORY: The following plats are associated with the property: Scholfield-Hatchett 3rd Addition, recorded March 18, 1993; Ripstra Addition, recorded June 14, 1956; McHugh Addition, recorded April 26, 1967; East Mission 2nd Addition, recorded September 21, 1994; Eastridge Addition, recorded December 3, 1949 and Eastridge 5th Addition, recorded in 1951. Zoning cases associated with the property include: Z-0854, A Single-family Residential to LC (McHugh Addition); Z-2667 and Z-3046, A to LC (southern 1/3 of the Scholfield-Hatchett 3rd Addition); Z-3129, A to LC and BB (Office) and ZON2007-00025, GO General Office (formerly B zoning) and TF-3 to LC and the creation of DP-305. BZA30-85 included a condition for use of the property as a car lot and is to be incorporated into the CUP provisions. Protective Overlay (PO) #124 associated with ZON 2003-09 rezoned a lot on Orme Street from TF-3 to LC with PO provisions, which also is to be incorporated in to the CUP provisions. BZA2006-53 reduced spacing for a freestanding sign on Kellogg Drive from 150 to 120 feet.

ADJACENT ZONING AND LAND USE:

North: LC; automobile dealership

South: SF-5; single-family residences

East: LC and SF-5; automobile dealership, single-family residences

West: LC and SF-5; automobile dealership, single-family residences

PUBLIC SERVICES: At this location East Orme Street has 60 feet of street right-of-way and provides a direct connection between South Governour Drive and South Hunter Street, located two blocks west of South Mission Road. South Governour Drive connects at the East Kellogg Drive frontage road and heads south as a standard local street. At East Orme Street, South Governour Drive has approximately 90 feet of right-of-way becomes a median divided road with limited left-turn north-bound opportunities and approximately 98 feet of right-of-way. Near the application area, West-bound East Kellogg Street carries in excess of 54,000 average daily vehicle trips. East-bound Kellogg Drive carries approximately 13,000 average daily trips. Other normally supplied utilities and public services are already serve the site or can be extended.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map did not anticipate the expansion of regional commercial uses south of East Orme Street. The 2030 Wichita Functional Land Use Guide map depicts “regional commercial” as being appropriate for property located north of East Orme Street. Land located south of East Orme Street is shown on the land use map previously referenced as appropriate for “urban residential” uses. The land use “vehicle and equipment sales” is considered to be a regional commercial use. The Comprehensive Plan’s commercial objective III.B encourages existing commercial areas to: develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses. The tract has reasonably good access to East Kellogg Drive, either through the Scholfield dealership or via South Gouverneur Road. Additionally, the proposed access controls, the proposed screening wall and the other proposed development standards minimize traffic conflict with the neighborhood and other potential impacts, such as noise and light pollution. Finally, the MAPC has an unofficial policy of supporting the expansion of existing businesses.

RECOMMENDATION: Based upon the information available prior to the public hearing, staff recommends the request be approved subject to replatting the property within one year and subject to the following conditions:

- A. Approve the zone change (ZON2013-00023) to LC Limited Commercial.
- B. Approve the amendments to Community Unit Plan DP-305, subject to the development standards contained in submitted CUP DP-305, except for General Provision 14.
- C. Revise General Provision 14 to state: The ordinance establishing the zone change shall not be published until thereplat has been recorded with the Register of Deeds.
- D. Complete access control shall be granted along the application area located south of existing East Orme Street; additional access controls and other traffic related controls or improvements shall be determined at the time of replatting.
- E. The replat of the site may require modification to the submitted CUP DP-305. CUP DP-305 shall be considered to be adjusted without further review so long as four copies of a revised CUP that is consistent with the approved plat are submitted to planning staff within 60 days of the recording of the plat.
- F. The applicant shall submit four copies of the approved CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The properties located along East Orme Street are located along an area of zoning and land use transition. East Kellogg Street / U. S. Highway 400 has significant frontage zoned LC and developed with medium-intense commercial uses such as: auto sales, hotels/motels, restaurants, offices or other commercial and retail uses. The expansion of East Kellogg has caused increased pressure for East Kellogg businesses who wish to expand to buy up abutting and adjacent residentially zoned and developed land. In this instance, the land surrounding the application area is zoned LC, SF-5 or TF-3 and is developed with a range of commercial, office and residential uses.
- 2. The suitability of the subject property for the uses to which it has been restricted: Clearly, the home, and its SF-5 zoning, located north of East Orme Street that is surrounded on three sides by an LC zoned auto dealership has become unsuitable as currently developed and zoned. The SF-5 zoning district does not permit any commercial uses other than those classified as a home occupation. The eight lots located south of East Orme Street could continue to be used as currently zoned, SF-5, and would retain economic value as older single-family residences.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce LC zoning south of East Orme Street west of South Governour Drive, and could invite additional interest to rezone and convert existing moderately valued single-family residences, which could compromise neighborhood stability. However, if commercial uses are going to expand the options are limited and moving south is most likely the most cost effective opportunity.
- 4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent an economic loss to the property owners proposing to sell their properties to the auto dealership. Approval would

allow an existing auto dealership to improve its dealership and presumably enhance the car buying experience at this location.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map did not anticipate the expansion of regional commercial uses south of East Orme Street. The 2030 Wichita Functional Land Use Guide map depicts “regional commercial” as being appropriate for property located north of East Orme Street. Land located south of East Orme Street is shown on the land use map previously referenced as appropriate for “urban residential” uses. The land use “vehicle and equipment sales” is considered to be a regional commercial use. The Comprehensive Plan’s commercial objective III.B encourages existing commercial areas to: develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses. The tract has reasonably good access to East Kellogg Drive, either through the Scholfield dealership or via South Governour Road. Additionally, the proposed access controls, the proposed screening wall and the other proposed development standards minimize traffic conflict with the neighborhood and other potential impacts, such as noise and light pollution. Finally, the MAPC has an unofficial policy of supporting the expansion of existing businesses.
6. Impact of the proposed development on community facilities: The proposed vacation of East Orme Street and other transportation, utility or stormwater needs will be addressed at the time of replatting.

DALE MILLER, Planning Staff presented the Staff Report.

MILLER indicated that although DAB II did not have a quorum, four members were present, they voted to approve the request and recommended that if Orme Street is vacated the applicant will pay for a new median cut at Gilbert Street to allow a left hand turn north onto Gouverneur Road. He explained that there is a median along Gouverneur Road and if Orme Street is vacated, the nearest median cut is three blocks south at Apache Drive.

MILLER indicated that he did receive one phone call from someone who lives on Mission Street who said they are not interested in seeing Orme vacated. He indicated they may be present to speak at the meeting.

MILLER STEVENS clarified that the lots being discussed were currently not owned by the applicant.

MILLER said the applicant either owns the lots or is in the process of purchasing them.

WARREN asked if the DAB recommendation was now part of the staff recommendation.

MILLER said no, staff was going to leave vacation of Orme out of the recommendation. He said the vacation issue will be addressed during replatting.

RUSS EWY, BAUGHMAN COMPANY, P.A., AGENT FOR APPLICANT clarified that the eight lots south of Orme Street are under contract pending approval of the zoning change. He said they have discussed vacation of Orme Street and a curb cut at Apache Drive with the City Traffic Engineer. He said that will be discussed further during the replatting process. He said the CUP submitted has a general provision that certain off-site traffic improvements may be necessary due to closure of Orme Street.

DENNIS clarified that the applicant will pay for the new curb cut.

EWY replied yes, the applicant would be expected to pay for that if Orme Street is vacated.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **MITCHELL** seconded the motion, and it carried (9-0-1).

J. JOHNSON – Abstained.

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5. **Case No.: CUP2013-00030** - Hoover Road, LLC (owner); Greg Ferris (agent) request a City request to amend CUP DP-82 to increase the height of an offsite sign located on Parcel 2 on property described as:

BACKGROUND: The GC General Commercial zoned site is located within DP-82, the Cross Town East Community Unit Plan (CUP) at the southeast corner of Webb and Kellogg. The applicant requests an amendment to DP-82 to increase the height of an off-site sign on the site from 30 to 50 feet. This CUP was approved for a digital off-site sign in 2010 (case CUP2009-22) limited to 30 feet in height with the following adopted CUP language:

“On-site signs as permitted by the zoning district. A digital LED billboard is permitted on Parcel No. 2 and Parcel No. 3 with a maximum area of 672 square feet per side and a maximum height of 30 feet. In the event the LED billboard is relocated prior to improvements to Kellogg, it may be placed on Parcel No. 2 or Parcel No. 3, so long as it is located south of the south line of the new Kellogg right-of-way and east of the west line of the new Webb Road right-of-way as acquired for the Kellogg Improvement project. In the event the sign is within any utility easement, it is the responsibility of the owner to obtain permission for such placement and hold-harmless agreement(s) from any and all beneficiaries of the easement.”

The Sign Code limits off-site signs to 30 feet in height unless adjacent to an elevated freeway; proposed improvements to Kellogg at this location will lower the freeway below grade with Webb bridging over Kellogg. The Unified Zoning Code (UZC) permits CUPs to set sign standards within CUPs. If the proposed sign site was not within a CUP, the requested 50-foot sign height would require a variance from the Board of Zoning Appeals (BZA). The agent for the applicant (see the attached letter and drawings) demonstrates that Kellogg improvements would impact visibility of the existing 30-foot sign, and that a 50-foot height would provide adequate visibility. Two other off-site signs are located within this mile along Kellogg. The BZA approved a 50-foot height variance in 2012 for an off-site sign approximately 1,500 feet east of this site. On-site signs within this section of Kellogg have also received height variances from the BZA. The proposed sign is located within the adopted Airport Zoning Hazard Map Area A and is located less than 800 feet southwest of the Hawker Beechcraft runway. Federal Aviation Administration (FAA) approval is required for any structure above 25 feet within Area A regardless of MAPC and/or City Council approval. The existing 30-foot sign on the site received FAA approval. Hawker Beechcraft received notice of this request and all submitted drawings.

The remainder of DP-82 consists of a retail store west of the sign site and a vacant big-box store to the south. The surrounding area includes the Hawker Beechcraft manufacturing and runway facilities, located on LI Limited Industrial zoned property to the north. GC zoned property to the east is used for vehicle sales, vehicle repair and equipment rental. West of Webb Road is LI zoned property with restaurant and retail uses. The entire Kellogg/Webb intersection will undergo significant changes with the construction of Kellogg improvements.

CASE HISTORY: The Cross Town East Addition was platted in 1977 and the Cross Town East CUP was approved also in 1977. One previous amendment to the CUP, CUP2009-22, permitted the digital off-site sign with a 30-foot height limit.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Hawker Beechcraft manufacturing and runway facilities
SOUTH:	GC	Commercial building, equipment rental, vehicle repair
EAST:	GC	Vehicle sales and repair
WEST:	GC, LI	Liquor store, restaurant, retail

PUBLIC SERVICES: No direct access is permitted to Kellogg Street. The CUP has access limitations of one access point onto Webb Road, two onto Orme Street (the southern boundary of the CUP) and three onto Wildcat Lane. Improvements to the Kellogg freeway will place it below grade at this location with a Webb Road interchange.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “regional commercial.” This includes major destination areas with a range of uses including major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. The proposed sign is located within the Airport Zoning Hazard Map Area A; FAA approval is required for any structure above 25 feet regardless of MAPC and/or City Council approval.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request for an amendment to DP-82 to increase the height of an offsite sign located on Parcel 2 from 30 to 50 feet be **APPROVED**, with the following conditions:

- (1) General Provision #2 shall be amended to increase the permitted off-site sign height from 30 to 50 feet.
- (2) The proposed sign shall meet all local, state and federal regulatory requirements with all required approvals, to include FAA approval, and shall conform to the approved site plan.
- (3) The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days of approval or the request shall be considered denied and closed.
- (4) If the Zoning Administrator finds that there is a violation of any of the conditions of the CUP amendment, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the CUP amendment null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** DP-82 consists of a retail store west of the sign site and a vacant big-box store to the south. The surrounding area includes the Hawker Beechcraft manufacturing and runway facilities, located on LI zoned property to the north. GC zoned property to the east is used for vehicle sales, vehicle repair and equipment rental. West of Webb Road is LI zoned property with restaurant and retail uses. The entire Kellogg/Webb intersection will undergo significant changes with the construction of Kellogg improvements, to include public art features in the right-of-way.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned GC, which accommodates a wide range of commercial uses. The existing 30-foot height limit may not provide adequate visibility of a sign when Kellogg improvements are made. The Airport Zoning Hazard Map Area A 25-foot height limit will require FAA review to determine if the runway is impacted.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The proposed height increase will not impact the surrounding LI and GC commercial properties. The height increase could impact use of the nearby runway, requiring FAA review and approval.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “regional commercial.” This includes major destination areas with a range of uses including major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. The proposed sign is located within the Airport Zoning Hazard Map Area A; FAA approval is required for any structure above 25 feet regardless of MAPC and/or City Council approval.
- (5) **Impact of the proposed development on community facilities:** The requested CUP amendment should have no physical impact on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report. He indicated that DAB II approved the application 4-0; however, he noted that is not a quorum so the recommendation is not binding.

WARREN asked about Federal Aviation Administration (FAA) approval.

MCNEELY said he wouldn't want to speculate, but added that the FAA approved the 30-foot sign currently at the site.

FOSTER asked how the movement of the easement and property line is recorded.

MCNEELY said he would refer that question to the applicant; however, he added that all changes would need to be recorded with the County Register of Deeds. He said the question before the Planning Commission was approving an amendment to the CUP to allow a 50-foot billboard at the site.

FOSTER asked if replatting was a condition.

MCNEELY said staff didn't think replatting was necessary for the request.

FOSTER referred to the rendering of the Webb and Frontage intersection. He said it was obvious that someone put a lot of thought into the design. He asked if the design committee was consulted or asked about the application.

MCNEELY said no, he doesn't know about their purview but he understands Commissioner Foster's concern.

FOSTER said this defeats the effort of public art.

GREG FERRIS, AGENT FOR THE APPLICANT mentioned approval of the last sign request approximately 1500 feet east of this location. He said this would be a fairly routine request to the BZA and the applicant would be able to meet all five criteria required for approval. He added not only was this need not brought on by the applicant but it is a direct result of the City's taking of property, which will result in a loss to the applicant. He said the current sign, which is visible to approximately 47,000 – 50,000 cars a day, will become invisible because of actions of the government. He said he realizes this is a nice corner; but added that the owner has the right to utilize his property. He said they concur and agree with staff comments.

FOSTER asked if replatting was necessary.

FERRIS commented that he worked for the sign company not the owner of the CUP. He said the dedication is shown on the new CUP drawings and the utility easements aren't moving.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **B. JOHNSON** seconded the motion, and it carried (9-1).
FOSTER – No.

6. **Case No.: CON2013-00022** – Homer Morgan (owner); Stephen M. Joseph (agent) request a City Conditional Use request for a Tavern - Drinking Establishment on LC Limited Commercial zoned property on property described as:

Lots 2 and 3, Turley's Addition to Wichita, Sedgwick County, Kansas.

VICE CHAIR GOOLSBY announced that the item has been deferred.

Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 2:00 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2013.

(SEAL)

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission